

VZCZCXRO0445
RR RUEHCN RUEHGH
DE RUEHGH #0464/01 2050342
ZNY CCCCC ZZH
R 240342Z JUL 07
FM AMCONSUL SHANGHAI
TO RUEHC/SECSTATE WASHDC 6061
INFO RUEHBJ/AMEMBASSY BEIJING 1279
RUEHCN/AMCONSUL CHENGDU 0788
RUEHGX/AMCONSUL GUANGZHOU 0768
RUEHHK/AMCONSUL HONG KONG 0906
RUEHSH/AMCONSUL SHENYANG 0790
RUEHIN/AIT TAIPEI 0637
RUEATRS/DEPT OF TREASURY WASHINGTON DC
RUCPDO/DEPT OF COMMERCE WASHINGTON DC
RUEHC/DEPT OF LABOR WASHINGTON DC
RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC
RUEHGH/AMCONSUL SHANGHAI 6501

C O N F I D E N T I A L SECTION 01 OF 03 SHANGHAI 000464

SIPDIS

SIPDIS

DEPT FOR EAP/CM AND DRL
LABOR FOR ILAB - ZHAO LI
TREAS FOR OASIA/ISA-CUSHMAN
USDOC FOR ITA/MAC/MCQUEEN, MELCHER AND DAS KASOFF

E.O. 12958: DECL: 7/24/2017
TAGS: [ELAB](#) [PGOV](#) [PHUM](#) [CH](#)
SUBJECT: SHANGHAI MUNICIPAL TRADE UNION COUNCIL: PROTECTING ECONOMIC
INTERESTS AND WORKERS RIGHTS

REF: BEIJING 4467

CLASSIFIED BY: Veomayoury Baccam, Acting Pol/Econ Section Chief,
U.S. Consulate , Shanghai .
REASON: 1.4 (b), (d)

¶1. (SBU) Summary. In a July 16 meeting, Shanghai Municipal Trade Union Council (SMTUC) Deputy Director Huang Qi called the new Labor Contract Law (LCL) a positive development because of its emphasis on the role of the trade union in labor contracts. Although SMTUC's primary responsibility was to protect workers, the representative noted that the organization also had a responsibility to promote harmony and often encouraged workers to settle problems without resorting to the courts. She also said SMTUC had to protect "economic interests" and had good relations with many companies. In separate meetings, academics and labor lawyers said the trade union was not very effective at representing workers and lacked accountability. End Summary.

SMTUC's Role and Programs

¶2. (SBU) On July 16, Poloff and FSN Political Assistant met with Shanghai Municipal Trade Union Council (SMTUC) Legal Work Department Deputy Director Huang Qi to discuss the new Labor Contract Law (see reftel). SMTUC, founded in 1925, acts as the Shanghai branch of the All China Federation of Trade Unions (ACFTU) and has 14 departments and over 120 staff members. According to Huang, the Legal Work Department had four major functions: advising the Shanghai Municipal People's Congress (SMPC) on legislation; monitoring labor law enforcement; organizing labor law training for lawyers and workers; and providing workers with legal assistance in resolving labor disputes. The SMTUC worked closely with local security and labor inspection organizations to investigate reports of labor violations. It also co-hosted an annual meeting with local entrepreneurial associations to discuss work-related issues such as salary levels, overtime pay policies and work-related injury insurance. In addition, the SMTUC participated in a few exchange programs with overseas trade unions. For example, it

planned on visiting trade unions in Los Angeles this year to learn how to better deal with migrant workers. In March 2008, the SMTUC planned to host a U.S. delegation from International Longshoremen's Association. When asked whether the SMTUC would be interested in receiving technical assistance from the United States, Huang noted that the SMTUC was reluctant to spearhead any programs and suggested that the Consulate raise this issue with the Labor Inspection Bureau.

"Win-Win" Scenario

13. (SBU) Huang said that although the primary role of a trade union was to better safeguard worker's rights, it was also important to protect "economic interests." No one benefited when companies closed their doors and went bankrupt. In addition, as the trade union was under the Communist Party's supervision, it needed to implement the Party's policy of building a harmonious society. Therefore, the SMTUC encouraged workers to settle disputes without going to court. She called this a "win-win" scenario. The trade union enjoyed good relationships with local companies as many companies realized that the trade union could help them manage the workers. Huang noted that this was very different from trade unions in America which had a more "aggressive" style. She said that such a style did not fit China's current situation and would result in instability, not harmony.

The Labor Contract Law

14. (SBU) According to Huang, SMTUC participated in the consultation process for the Labor Contract Law (LCL) by

SHANGHAI 00000464 002 OF 003

forwarding the suggestions and opinions of workers in Shanghai to the National People's Congress and the Chinese State Council.

She noted complaints by some multinational companies (MNCs) that the law was not necessary. Nevertheless, although Shanghai's local labor contract regulation was more advanced than the LCL and most MNCs complied with the law, redundancy was good. She was pleased that the LCL had given the trade union a greater role in the contract negotiations. Before workers sign contracts, trade union representatives must explain the contracts clearly to the workers, especially the articles on employee and employer's rights and interests, probationary period and confidentiality agreement. However, in many cases this was a mere formality and as long as the companies informed the trade union in advance of the contract there should be no problems for approval. To promote the law, SMTUC planned on organizing four large-scale training sessions, in which it would provide training on the law to its subordinate trade unions. The trade unions would then provide training to workers. The first session was scheduled for July 22 and was targeted at labor lawyers.

Migrant Workers

15. (SBU) Huang acknowledged that more needed to be done to help migrant workers and said that the SMTUC was active in helping this group. SMTUC operated evening schools for migrant workers, teaching them technical skills as well as how to act in a "civilized" society. Huang believed that this type of training helped migrant workers to become more competitive in the job market and eventually gave them more bargaining power in negotiating contracts. This was one way in which SMUTC was improving labor rights.

Scholars and Lawyers' Views on the Trade Union's Role

16. (C) Before the LCL was passed, Poloff and FSN Political Assistant had discussed the role of China's labor union with local labor scholars and lawyers. All agreed that China's labor rights problems stem from weak enforcement and said that the union needed to be more accountable to workers. However, none believed the Chinese government would allow the union to be entirely independent or strong. On June 8, Jun He Law Offices' Partner Ma Jianjun said the key problem with the trade union in China was that it received its funding from companies and, therefore, had competing loyalties. While it was important to reform the trade union, he thought China was not ready for European style unions, independent from the government. Baker and McKenzie Lawyer Jeffery Wilson, in a discussion on June 13, noted that Chinese labor officials lacked manpower and incentives to enforce labor laws. The government would like the trade union to take on some of this responsibility and to be more aggressive in protecting workers.

17. (C) East China University of Political Sciences and Law Professor Dong Baohua, who participated in drafting the 1995 Labor Law, told Poloff and FSN Political Assistant in a separate meeting on June 13 that the trade union enjoyed all the benefits but none of the responsibilities of protecting workers. Its leaders, many of whom were Communist Party leaders, had a great deal of power and influence, but did not answer to workers and were not held accountable for their actions. He did not think that trade union leaders were interested in reform and strengthening their connection to workers. Shanghai Normal University Professor Liu Cheng, on June 7, acknowledged that the trade union was not very effective in representing workers. He believed, however, that the union eventually would become more active in protecting workers rights after the LCL was implemented. A stronger trade union would improve democracy and increase rule of law.

Comment

SHANGHAI 00000464 003 OF 003

18. (C) The SMTUC's emphasis on economic development and harmony as well as its cozy relationship with companies make it unlikely that the organization will become more active in promoting workers rights or change much of its actions because of the LCL. It still is subordinate to the Communist Party and will continue to look to the party for guidance.
SCHUCHAT